

2/25/77 [2]

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MEMO W/ ATTACH	FROM STU EIZENSTAT TO THE PRESIDENT (6 P.P.) RE: MEETING WITH ADMIRAL RICKOVER	2/25/77	A

FILE LOCATION

CARTER PRESIDENTIAL PAPERS-STAFF OFFICES, OFFICE OF THE STAFF SEC.-PRES.
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THE WHITE HOUSE
WASHINGTON

February 25, 1977

The attached is forwarded to you
for your information.

Stu Eizenstat
Hamilton Jordan
Frank Moore
Jody Powell
Jack Watson
Jim Fallows
Jim Schlesinger

Re: Jim Schlesinger's Energy
Legislation

Rick Hutcheson

THE WHITE HOUSE
WASHINGTON

*don't
send
it*

ACTION	FYI	
		MONDALE
		COSTANZA
	X	EIZENSTAT
	X	JORDAN
		LIPSHUTZ
	X	MOORE
	X	POWELL
	X	WATSON

- ☐ FOR STAFFING
- ☐ FOR INFORMATION
- ☐ TO PRESIDENT
TODAY

ACTION	FYI	
		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		H. CARTER
		CLOUGH
	X	FALLOWS
		HARDEN
		HOYT
		KRAFT
		B. MITCHELL
		B. RAINWATER
	X	SCHLESINGER
		SCHNEIDERS
		SIEGEL
		T. SMITH
		WELLS
		VOORDE

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

9
1

February 24, 1977

MEMORANDUM TO: THE PRESIDENT
FROM: JACK WATSON *Jack*
RE: Jim Schlesinger's Energy Legislation

I am forwarding for your review Jim's outline of legislation to create a Department of Energy, Stu's comments, and in case you feel the need to review it, a copy of the draft bill.

I have communicated with Jim directly concerning the desirability of calling key Governors today and tomorrow so that we can say there was some "consultation" prior to the Governors' all coming in here on Monday.

**Electrostatic Copy Made
for Preservation Purposes**

Attachments

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Frank Moore

The attached is forwarded to
you for your information.

Rick Hutcheson

Re: Sam Nunn and John Danforth
support on reorgaization.

U.S. Contribution to UN Trust Fund for Lebanon

We are prepared to make a \$3 million contribution to the Secretary General's Trust Fund for Lebanon to provide funds for the rehabilitation and reequipping of Lebanon's health delivery system. The grant will bring our total contributions to the UN Trust Fund for Lebanon to \$4 million, and is part of our recently-announced \$50 million package for Lebanese relief.

Your Talking Point

-- I am happy to tell you that the U.S. is prepared to make an additional grant of \$3 million to the UN Trust Fund for Lebanon to provide funds for the rehabilitation of Lebanon's health delivery system.

THE PRESIDENT HAS SEEN.

Revised:
2/25/77
9:00 a.m.

THE PRESIDENT'S SCHEDULE

Friday - February 25, 1977

7:00	Filming by the NGK Broadcasting of Japan of Office Arrival and First Few Minutes in Office. (Mr. Barry Jagoda).
8:15	Senator Henry M. Jackson - The Oval Office.
8:30	Dr. Zbigniew Brzezinski - The Oval Office.
8:45	Mr. Frank Moore - The Oval Office.
9:30	Mr. Bert Lance - The Oval Office.
10:00 (5 min.)	Ambassador Frank Carlucci and Dep. Assistant Secretary of State James Lowenstein. (Dr. Zbigniew Brzezinski). The Oval Office.
10:05 (20 min.)	Dr. Zbigniew Brzezinski - The Oval Office.
11:15	Greet His Excellency the Secretary General of the United Nations and Mrs. Kurt Waldheim and Miss Christa Waldheim - The North Portico.
11:30 (30 min.)	Meeting with Secretary General Kurt Waldheim. (Dr. Zbigniew Brzezinski) - The Cabinet Room.
12:00	Working Luncheon with Secretary General Kurt Waldheim - First Floor Private Dining Room.
2:30	Participate in Annual White House Blood Donation Drive - Room 308, EOB.
3:40 (5 min.)	Mr. Wilbur Jenkins. (Mr. Robert Linder). The Oval Office.
3:45 (30 min.)	Meeting with Representatives of the National Conference of State Legislatures. (Mr. Jack Watson). The Cabinet Room.
4:20	Admiral Hyman G. Rickover - The Diplomatic Reception Room.
4:30	Depart South Grounds via Helicopter en route Camp David.

Ser GEN WALDHEIM
Elizabeth - Crista
Lifetime - peace
human rights
Mid E. - Cyprus - S Africa

FAIRNESS / OBJECTIVITY
HARD WORKER
IMPOS TO MANAGE
COMMON EFFORTS
COMING TOGETHER. SOUTH
MOSAIC - CATHEDRAL
WE WILL HELP
VANCE - YOUNG - I

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

February 23, 1977

*Sta -
I never saw
it that I
recall
J*

MR. PRESIDENT:

Attached is a copy of the cost control memorandum which you indicated you had not yet seen. Our files indicate that the original of this was sent to you on February 11.

Sta

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

*Note to
SM - This was
never sent to
me - ~~Rich~~
Rich
June*

ACTION	FYI	
		MONDALE
		COSTANZA
	<input checked="" type="checkbox"/>	EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON

- ☐ FOR STAFFING
- ☐ FOR INFORMATION
- ☐ TO PRESIDENT
TODAY

ACTION	FYI	
		ARAGON
		BOURNE
		BRZEZINSKI
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		B. MITCHELL
		B. RAINWATER
		SCHLESINGER
		SCHNEIDERS
		SIEGEL
		T. SMITH
		WELLS
		VOORDE

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

Re: Hospital Cost Containment
Program.

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

February 11, 1977

MEMORANDUM FOR: THE PRESIDENT

FROM: STU EIZENSTAT

SUBJECT: Hospital Cost Containment Program

HEW Secretary Califano has endorsed and further developed the program to control health inflation that was contained in the draft legislative package I submitted to you on January 3. My staff and I have closely examined the HEW proposal, and although we are not wedded to each detail, we are in full agreement with this program. It is now included in the budget submission being transmitted to you by OMB Director Lance.

The program would limit overall cost increases in our hospitals, where 40% of all health spending occurs. Hospital inflation is now 15% per year. The program would limit the national growth of hospital expenditures per patient to approximately 10% per year. Federal Medicare and Medicaid savings would be \$793 million in FY 1978, total savings to the economy would be \$1.65 billion, and state and local Medicaid savings would be \$115 million. A more detailed description of the program, prepared by HEW, is attached as Tab A. A copy of this description is being circulated to the Economic Policy Group for their comments.

This is an interim approach, designed to operate for 18-24 months, to be introduced and passed as a complement to the permanent Talmadge system for prospective reimbursement of hospitals. The sophisticated Talmadge system would take over on a phased-in basis as administrative capability permits.

My staff is working with Senator Talmadge's Finance Committee staff on his legislation establishing the permanent system. Further, the Senator's staff reports that he is willing to support the interim cost containment program. In fact, staff indicates he is prepared to make it part of his bill, if you request that he do so.

If you agree that we should continue to pursue this approach, the need for your involvement is now great. The publication of our proposed budget on February 22 will make necessary an explanation of how we anticipate accomplishing the Medicare/Medicaid reductions it contains.

The first priority is to consult in advance with the health leaders on the Hill. My staff has talked with the major Hill staff members and believe that this program will be supported. Tab B contains the names of the eight senators and Congressmen whom you might call early next week, and suggested approaches you might take in those conversations.

The remaining interested parties--labor, business, health insurers, and health providers--will be contacted by Secretary Califano and me. The reaction to this proposal will probably be as follows:

1. Labor. The unions will be generally supportive. They are concerned about rising health costs, they recognize that National Health Insurance depends on cost containment, and they support the expenditure limit approach in the Kennedy-Corman Bill which--like the proposed program--does not involve wage and price controls. Those unions with hospital employee members may have difficulties with the program. We will attempt to address this problem by explicitly incorporating into the exceptions criteria a consideration for low-wage hospitals.
2. Business. Although as a general principal the business community is opposed to federal intervention, it is increasingly concerned about health care costs and becoming aware that the health industry departs from traditional market models. If handled gingerly, the business community could be persuaded not to vehemently oppose the proposed program. The automakers have been the most visible in discussions of health costs, and may even be supportive.
3. Insurance Industry. The health insurance industry is also deeply concerned about health care costs. Some Blue Cross chapters are on the verge of bankruptcy. In addition, sophisticated industry leaders recognize that if inflation continues unchecked, the public and Congress may accept the argument that only total federal financing can control health costs. We should make the insurance industry aware that

this program represents its opportunity to demonstrate that it can work effectively with hospitals to control costs and that it deserves a major role under national health insurance. It should also be made aware that the most widely mentioned alternative to the system-wide limitations proposed here is a limitation on Medicare/Medicaid expenditures alone. The industry strongly opposes this alternative because it would force hospitals to shift their rising costs to private payors.

4. Health Providers. Hospitals will complain strongly against the program, although many recognize that such a system is necessary to enable them to resist physician demands for more expensive equipment and so forth. The AMA will be strongly opposed.

You may wish to have me send, over your signature, a series of telegrams to selected leaders of the above communities, urging their support and recommending consultation with Secretary Califano and myself.

This proposal is not a system of wage and price controls, but an effort to limit the overall growth of hospital expenditures. Experience indicates that without government intervention, health inflation will continue unchecked.

I believe that this program has good prospects for adoption, and that a strong cost containment effort is crucial to the success of any national health insurance proposal.

cc: Frank Moore

February 10, 1977

HOSPITAL COST CONTAINMENT SYSTEM:
HEW PROPOSAL

Summary of the Proposal

The President would initiate an effort to develop a permanent hospital cost containment system to cover all payors--Medicare, Medicaid, Blue Cross, commercial insurance and self-pay. The Secretary would appoint a national advisory committee of broad representation to advise on all aspects of the system and help determine future trends in spending for hospital care. The program would be directed by the Secretary of HEW and would begin with a directive from the Congress to establish limits on annual rates of increase in hospital reimbursement from all payors, beginning in FY 1978, after consultation with the health industry and the public. The program itself would be administered in large part by the hospitals and private third party payors who would be responsible for working with the Federal and State governments to achieve needed efficiencies and economics in health care.

Recognizing that a simple ceiling on increases in hospital reimbursement can be inappropriate for changing conditions over a long period of time, the Secretary would be authorized to work in consultation with the Congress to evolve a more permanent cost containment program, the form and stringency of which would be subject to negotiation with the health industry and advice of the national committee. This plan would then remain in effect until absorbed by reimbursement provisions of a comprehensive national health insurance plan. The Secretary would also be directed to develop criteria to waive Federal cost containment requirements in those states that have acceptable hospital rate review programs.

Budget Implications

	Fiscal Years (In millions)				
	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
Hospital Spending without Cost Containment	\$ 64,652	\$ 74,931	\$ 86,396	\$ 99,269	\$ 113,266
Estimated Savings		2,442	4,900	7,840	10,888
Federal Medicare		659	1,323	2,117	2,940
Federal Medicaid		134	270	431	599
State Medicaid		115	230	368	512
Other State & Local		291	583	933	1,296
Private Sector		1,243	2,494	3,991	5,542

Key Features of the System

- Appointment of a national level advisory committee composed of individuals representing consumers, insurers, physicians, nurses, hospitals, labor, business and government. Specific responsibilities of the committee would include advising the Secretary of HEW on:
 1. Criteria for granting waivers from Federal cost containment programs, both short term and long term, for those States with acceptable hospital rate review program, and how the Department could further assist states in developing that capability.
 2. The potential effects of alternative levels and types of hospital cost containment, beginning in FY 1978.
 3. Any proposed hospital cost containment regulations or policies prior to their publication for public comment.
- Congress would direct the Secretary of HEW to establish prospective limits on increases in hospital reimbursement for all payors for beginning in FY 1978 after consultation with the health industry and the public. Provision would also be made in the legislation for adding necessary staff.

Tentative Timetable - Assumes passage in May, 1977 and first reimbursement limits effective on October 1, 1977:

1. Secretary solicits opinions through a notice of intent published immediately upon passage of legislation.
2. National level advisory committee selected by July 1.
3. Secretary consults with advisory committee representatives of major national organizations (by July 15).
4. Secretary holds public hearings in each of the HEW regional office cities (by August 15).
5. Secretary establishes tentative limits and publishes notice of proposed rule making for 30 days of public comment (by August 22).
6. Secretary consults with national advisory committee and representatives of major national organizations and makes any necessary changes in limits, which are published in final form effective October 1.

Preliminary Recommendations for FY 1978

1. Under the Federal System, a limit of approximately 9% on increases in reimbursement for operating costs per admission for each hospital, with exceptions totaling about 1% of expenditures to handle unusual financial hardships and the added cost of approved new capital and services.
2. Waiver for States with acceptable hospital rate review programs.
3. Separate controls on hospital outpatient departments, to encourage alternatives to inpatient care.
4. Federal programs would encourage additional cost containment activities such as second opinion before surgery, pre-admission review for non-emergency hospital care, etc.
5. Monitoring for compliance by Federal government, primarily using data already reported by hospitals for other programs, such as Medicare and Medicaid. Hospitals found in violation of reimbursement ceilings in any year could "repay" excesses by reducing charge or reimbursement increases in future years. Civil and criminal penalties would be included to combat fraud and abuse.

Program Justification

There is an urgent need to set a course of actions designed to contain the continued rapid and disturbing rise in the cost of health care, particularly the cost of hospital care. These costs continue to increase much more rapidly than the overall cost of living, and abatement is not likely unless strong action is taken. The Department therefore proposes a multi-stage plan to contain the increase in hospital costs, all based on a strong Presidential initiative.

Over 90 percent of all expenditures for hospital services are now paid for by some third party. More than 50 percent of hospital spending is reimbursed based on costs incurred by the hospital in providing services (cost-reimbursement), with another 40 percent paid by insurance companies based on the charges billed by the hospital. Medicare and Medicaid as well as most Blue Cross plans use the cost-reimbursement system. Cost-reimbursement was originally considered the best cost control device for public

programs--hospitals would not lose money, nor would they make profits. However, it is now generally recognized that open-ended cost-reimbursement has not encouraged sufficient restraint in spending by health care providers. In effect, the higher the hospital's cost, the higher its reimbursement.

Since the introduction of Medicare and Medicaid, the average cost of a day in the hospital has tripled from \$44 per day in 1965 to \$154 per day in 1976 compared to only a 70 percent increase in the overall cost of living. During this past year alone, while the overall CPI rose 7 percent, the cost of a stay in the hospital rose almost 15 percent, and the rate of increase is expected to be almost as high in the next few years. These increases alone have added about \$2 billion to the budget of public financing programs in FY 1976 and are expected to add an additional \$2.5 billion in FY 1977. Previous attempts to control the costs of just public programs have been fragmentary, small scale, generally arbitrary and have had little net effect on either program or total hospital costs. Most of the department's current efforts are either limited in scope, just starting or experimental in nature. Therefore, postponing development of a comprehensive hospital cost containment system would merely perpetuate the current cost escalation and reduce the likelihood that the nation could afford national health insurance.

Estimated FY 1978 Allowance

The basic allowance

Expected increase in wages in the general economy	8.1%
Expected increases in price (total CPI)	5.5%

Weights: payroll = 55%
non-payroll = 45%

Calculation: 7.0% due to increases in wages and prices
(8.1% X .55 + 5.5% X .45 = 6.9%)

2.0 for added intensity
9.0 total basic allowance for each hospital

Adjustments

- The FY 1978 allowances would include two adjustments:

1. Revenues to cover added depreciation due to increases in services or facilities where they could not be financed out of the revenues generated by the added patients (pool of \$100 million under Medicare and Medicaid to be dispensed by the States on an individual case basis); and

2. Exceptions for unusual financial hardships causing a negative cash flow or unusually large wage settlements required by equity considerations, e.g. effect of minimum wage laws (estimated to be approximately \$50 million under Medicare and Medicaid).

Basis for Long Term Estimate of Savings

The hospital expenditure projections above were based on the FY 1976 estimate of hospital spending by the Office of Research and Statistics of SSA. They were inflated by the annual growth rates estimated by the SSA Actuary. The rates of growth were then reduced for inpatient services in short term general hospitals to take into account a 9 percent limit on increases in reimbursement per admission, plus exceptions and adjustments. No savings were estimated for long term, psychiatric or tuberculosis hospitals. Finally, the savings were apportioned to each payor based on its percentage of hospital expenditures in FY 1976.

Supporting Arguments

1. Medical Costs Are Out of Control

- Hospital spending rose over \$7 billion in FY 1976.
- Cost per hospital stay rose almost 15% in FY 1976.
- Medicare and Medicaid spent \$14.5 billion for hospital care in FY 1976, and expect to spend almost \$18 billion in FY 1977.
- Half the increase is due to inflation, while the other half is accounted for by additional use of inputs.
- Unless something is done to contain the increase, total hospital spending will be almost \$75 billion during FY 1978, with the Federal Government spending about \$30 billion.
- If inflation is allowed to continue at current rates, spending under national health insurance could double in five years.
- The HEW proposal would provide substantial fiscal relief to States and localities. Savings could be in excess of \$400 million in FY 1978, growing to \$1.8 billion by 1981.

2. Direct Implications for National Health Insurance

- The short-run limits on reimbursement increases are not considered by anyone to be the panacea making national health insurance financially feasible. They are a necessary first step in an evolutionary process to build in long-run cost and quality controls as promised by the President during the campaign.
- The HEW proposal commits the administration to prospective reimbursement, not permanent controls based on any specific short-run approach. This is completely consistent with a major campaign promise.
- The HEW proposal would encourage the evolution of strong positive relationships between the Federal government and States, and would not lock the Federal government into any particular arrangement that would not be consistent with the administrative structure of national health insurance.

3. Effects of Cost Containment Efforts Limited to Medicare and Medicaid Alone.

- Freezes in the principles of the 1977 and 1978 Ford budgets.
- At best, it would achieve short-run budget control, with no real cost containment potential. It would not curb total hospital costs, and hence national health insurance would become extremely expensive in future years.
- Would have a whipsawing effect of shifting costs to private insurance, adding to the burden now faced by the average American worker.
- Would eventually result in a fraud and abuse problem similar to that now faced by Medicaid.
 - Within five years a Medicare hospital day might be reimbursed at \$236, while a private sector day might cost 283.
 - The likelihood of a further 20% difference in payment might result in hospitals rethinking long-standing commitments to Medicare patients.
 - Two class medicine could become a reality for Medicare.
 - Might discourage hospitals from admitting elderly patients, and bring back "ward medicine".
- The cost differentials between public and private patients will eventually catch up with us--leading to pressure for disruptive termination of controls.
- Controls on Medicare alone would be politically unacceptable--to aged groups, labor, and the private insurance industry.

4. Administrative Burden

- The HEW approach, by relying on existing third party mechanisms would have minimal additional administrative cost.
- The HEW proposal would require no more than about 100 new staff once fully implemented.
- A program limited to Medicare and Medicaid would not be much less costly to administer.
- The State waiver provisions would encourage continued investment by States in prospective reimbursement systems consistent with long-term Federal policy objectives.
- A strong involvement of the President in jawboning could have significant positive effects in encouraging greater efforts by the Governors and State and local agencies to solve cost problems themselves.

5. Value of Private Sector Efforts

- No large-scale private sector efforts have been undertaken yet.
- Anecdotal evidence on private sector efforts to date show that these efforts are necessary but not sufficient. They are fragmented, and clearly do not have adequate influence in most communities.
- Most communities are now looking to the public sector, especially the Federal government, for leadership.
- Not supporting such activities by a comprehensive Federal cost containment system would severely undermine the potential benefits of State and private sector efforts.

TAB B

SUGGESTED REMARKS TO CONGRESSIONAL
HEALTH LEADERS

Senator Herman Talmadge - Chairman, Health Subcommittee,
Senate Finance Committee

I would like to propose a short-term program which places a limit on the expenditures per patient each hospital can make. This program will reduce hospital inflation from 15% to about 10%. It is meant to complement your efforts to establish a permanent prospective reimbursement and cost control system. I hope it can be a part of your prospective reimbursement bill, which I support fully, and which our staffs have been working together on. My staff and yours will continue to work together.

Senator Edward Kennedy - Chairman, Health Subcommittee,
Senate Labor & Public Welfare
Committee

Congressman Al Ullman - Chairman, House Ways & Means
Committee

Congressman Tip O'Neill - Speaker of the House

Senator Robert Byrd - Majority Leader of the Senate

I would like to propose a short-term program which places a limit on the expenditures per patient each hospital can make. This program will reduce hospital inflation from 15% to about 10%. I believe that this interim inflation control program, which will later be replaced by a permanent prospective reimbursement system, is the essential first step toward national health insurance. I look forward to your support. My staff is ready to brief you and work with you.

Congressman Dan Rostenkowski - Chairman, Health Subcommittee,
House Ways & Means Committee

Congressman Paul Rogers - Chairman, Health Subcommittee,
House Interstate and Foreign
Commerce Committee

Senator Russell Long - Chairman, Senate Finance
Committee

I would like to propose a short-term program which places a limit on the expenditures per patient each hospital can make. This program will reduce hospital inflation from

15% to about 10%. I believe that this interim inflation control program, which will later be replaced by a permanent prospective reimbursement system, is essential to control our rising health costs and to make possible important reforms in our health programs. I look forward to your support. My staff is ready to brief you and to work with you.

THE WHITE HOUSE
WASHINGTON

ACTION	FYI
	MONDALE
	COSTANZA
	EIZENSTAT
	JORDAN
	LIPSHUTZ
	MOORE
	POWELL
	WATSON

- ☐ FOR STAFFING
- ☐ FOR INFORMATION
- ☐ TO PRESIDENT
TODAY

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X	KRAFT
	B. MITCHELL
	B. RAINWATER
	SCHLESINGER
	SCHNEIDERS
	SIEGEL
X	T. SMITH
	WELLS
	VOORDE

G. Poston

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

MEMORANDUM TO THE PRESIDENT

FROM: GRETCHEN POSTON

DATE: 24 February 1977

SUBJECT: WORKING DINNER FOR THE PRIME MINISTER OF JAPAN

I would like to reverse the format for entertainment for your working dinner with Prime Minister Fukuda.

Following a long working session with Isaac Stern on Saturday, I learned of the Prime Minister's great love for chamber music. I am suggesting a concert with the Cleveland Quartet, including flutist Paula Robison. Because the dinner is a working dinner, I am suggesting that guests arrive and go to the East Room with a glass of wine to hear the concert before dinner. Following the thirty-minute concert, all guests would proceed to the State Dining Room for dinner.

I am meeting with Tim Kraft and Tim Smith today and will give them this memorandum.

APPROVAL ✓

COMMENTS

*If others agree
J*

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Gretchen Poston

The attached was returned in the President's outbox. It is forwarded to you for appropriate handling.

Rick Hutcheson

cc: Tim Kraft
Tim Smith

Re: Working Dinner for Prime
Minister of Japan

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Frank Moore

The attached is forwarded to you
for your information.

Rick Hutcheson

Re: Inouye call re approval of
Stan Turner

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

February 24, 1977

MEMORANDUM FOR:

THE PRESIDENT
2:45 p.m.

FROM:

FRANK MOORE *Fu*

Danny Inouye called to say that Stan Turner was approved unanimously just a few minutes ago. You might write Danny a note to thank him. *no*

I can also report to you that three members of the Appropriations Committee and five members of the Armed Services Committee are presently receiving classified but not covert information. *C*

The Intelligence Committee will be greatly reduced because of retirements. Members who retire in '78, '80, and '82 will just not be replaced. This will greatly reduce the number of people with access to CIA information. *C*

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

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		SIEGEL
		T. SMITH
		WELLS
		VOORDE

THE PRESIDENT HAS SEEN.
THE WHITE HOUSE
WASHINGTON

*Frank - This was in the President's
OUT Box, although there's
no "C" in it, & I think
he has seen it. Susan*

February 24, 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

FRANK MOORE *FM*

Sam Nunn and John Danforth saved our cookies today in the Senate Government Operations Committee on reorganization by beating back attempts to limit the number of years, the number of plans and subject matter that could be submitted on reorganization.

You should thank Sam for this prior to your Warnke discussion this evening.

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Zbigniew Brzezinski
Hugh Carter

The attached is forwarded to you
for your information.

Rick Hutcheson

Re: Arrival Ceremony for U.N.
Sec. General Kurt Waldheim.

THE WHITE HOUSE
WASHINGTON

ACTION	FYI	
		MONDALE
		COSTANZA
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		ARAGON
		BOURNE
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		BUTLER
	<input checked="" type="checkbox"/>	H. CARTER
		CLOUGH
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		B. MITCHELL
		B. RAINWATER
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		WELLS
		VOORDE

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

February 23, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: HUGH CARTER, JR. 
SUBJECT: Arrival Ceremony for U.N. Secretary General
Kurt Waldheim

I am making final preparations for the facilities and ceremony to be provided to the U.N. Secretary General when he visits the White House on Friday of this week. Based on the State Department recommendations and Dr. Brzezinski's concurrence, I am providing a military aircraft to bring him from New York to Andrews Air Force Base, and an automobile from Andrews to the White House. Also, the automobile and aircraft will be provided for his return trip.

In addition, the State Department is making arrangements to provide the Blair House for his use, and Dr. Brzezinski concurs with this.

There will be brief remarks with press coverage by you and the Secretary General upon his arrival at the South Diplomatic entrance. The State Department recommends that for this arrival, there be a military honor cordon lining the driveway, and a red carpet at the Diplomatic Room entrance. These are the same honors which have been accorded ambassadors who come to the White House to present credentials.

Should you want to further upgrade the arrival ceremony, a military band or the military Fife and Drum Corps could be provided.

Approve Military Band _____

Approve Fife & Drum Corps _____

Disapprove both band and Fife & Drum Corps ✓

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Stu Eizenstat -

The attached was returned in
the President's outbox. It is
forwarded to you for your
information.

Rick Hutcheson

Re: Hearings on Sunset Legislation

THE WHITE HOUSE
WASHINGTON

ACTION	FYI	
		MONDALE
		COSTANZA
	<input checked="" type="checkbox"/>	EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON

- ☐ FOR STAFFING
- ☒ FOR INFORMATION
- ☐ TO PRESIDENT
TODAY

ACTION	FYI	
		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		H. CARTER
		CLOUGH
		FALLOWS
		HARDEN
		HOYT
		KRAFT
		B. MITCHELL
		B. RAINWATER
		SCHLESINGER
		SCHNEIDERS
		SIEGEL
		T. SMITH
		WELLS
		VOORDE

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

February 25, 1977

MEMORANDUM FOR: THE PRESIDENT
FROM: Stu Eizenstat *Stu*
SUBJECT: Hearings on Sunset
Legislation

Attached is memorandum on sunset legislation
for your information.

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

February 25, 1977

MEMORANDUM FOR

THE SECRETARY OF TREASURY
THE SECRETARY OF DEFENSE
THE SECRETARY OF LABOR
THE SECRETARY OF HEALTH, EDUCATION
AND WELFARE
DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET

FROM: STU EIZENSTAT *Stu*

SUBJECT: Hearings on Sunset Legislation

I have held several discussions and meetings with the staff of Senator Muskie's Subcommittee on Intergovernmental Relations on the sunset legislation, under which major pieces of legislation would expire unless reauthorized at least once every five years. In many ways this is the legislative counterpart to zero-based budgeting in the Executive Branch.

Senator Muskie's staff informed me that they would like to call each of you for hearings on March 22 and March 23. They indicated that:

1. Director Lance would be called to give the Administration's general position on sunset legislation.
2. Secretary Blumenthal will be asked to give his views on the application of sunset legislation to tax legislation.
3. Secretary Califano would be asked to testify about the application of sunset legislation to social programs.
4. Secretary Marshall will be asked to testify to the application of this legislation to worker rights.

5. Secretary Brown will be asked to testify to the application of such legislation to defense programs.

During the campaign the President, in general terms, endorsed the concept of sunset legislation, but left open the issue of the details of the legislation he might support.

We have been working for some time on this concept, and will work closely with OMB to attempt to give you an overview of this legislation.

I enclose a copy of the bill which Senator Muskie has introduced which has, as you can see, wide bipartisan support across ideological lines.

cc: Harrison Wellford
Frank Moore
Jack Watson
Si Lazarus

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

February 25, 1977

MEMORANDUM FOR: THE PRESIDENT
FROM: Stu Eizenstat *Stu*
Kathy Fletcher
SUBJECT: Status of Lake Alma Project

1) The project will be a small shallow lake funded from HUD block grant funds. It has not yet begun.

2) The project is a rather minor issue which does not fall within the scope of our current review of water projects.

3) EPA opposes the project and state that eutrophication is certain. (This is a process by which a lake clogs up with algae and plants, loses its oxygen and "dies".)

4) Opponents of the project favor retaining the swamp in its natural state, and argue that the money could better be spent on other recreation opportunities.

5) Proponents argue that the flat-water recreation is needed and that the lake will be an economic stimulus.

I recommend that you not get involved in this project. EPA on its own might pursue its objections to the project.

The fact sheet attached hereto was prepared at our request by the Council on Environmental Quality.

*Stu - Jim against it.
Thanks - J*

Electrostatic Copy Made
for Preservation Purposes

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Stu Eizenstat

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

Re: Status of Lake Alma Project

Environmental Issues for Lake Alma

City of Alma, Georgia

The Proposal

The City of Alma has proposed to create a shallow 1,400 acre lake in the flood plain of Hurricane Creek for recreation and economic stimulus. The Creek and its surrounding flood plain are presently in their natural state, and are used as a swamp park by local citizens.

Funding Source

Alma has a \$1 million community development block grant from HUD. Previous Model Cities activities in Alma entitle it to a much larger grant than HUD's statutory formula would normally allow for such a small town.

Environmental Review

Responsibility for compliance with the National Environmental Policy Act was delegated to mayors in the block grant program of the Housing and Community Development Act of 1974 because the Act gives all decision-making authority, including project selection, to the mayors.

The City of Alma has completed its environmental impact statement for the proposed lake. The Council on Environmental Quality believes that the impact statement itself is of reasonable quality, but Alma has received hundreds of letters from local citizens who oppose the project.

Issues For and Against

Proponents of Lake Alma argue that it is an essential link to the economic development of the county and southeast Georgia. They believe that there is a demand for the recreation opportunities offered by a large public lake.

Opponents argue that, despite the worthwhile goal of economic development, there is no demand for lake recreation and that block grant funds can be better used to meet other development needs. They also argue that maintenance of the lake would become a drain on local property tax revenues because it would not be self-supporting. They allege that other similar lakes in the area are not breaking even. Opponents favor the existing or an improved swamp park.

Agency Positions

EPA strongly opposes Lake Alma, and states that eutrophication is certain. Its critical comments on the final impact statement are expected in early March. State and regional agencies have mixed reactions because of some political support at regional and state levels.

CEQ has not commented on Lake Alma. It has, however, advised Alma officials to pay close attention to EPA's comments on the draft and final environmental impact statements.

THE WHITE HOUSE
WASHINGTON

February 23, 1977

Stu Eizenstat -

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

Re: Lake Alma Project

THE PRESIDENT HAS SAID.

JAB-
status?
J
JAMES A. BISHOP

FIRST FEDERAL PLAZA

BRUNSWICK, GEORGIA 31520

February 18, 1977

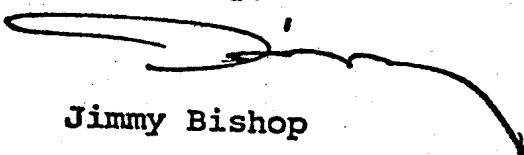
Honorable Jimmy Carter-Dasher
President of the United States of America
The White House
1600 Pennsylvania Avenue
Washington, D. C. 20013

Dear Mr. President:

If something relating to the Lake Alma
project comes to you from the Council On
Environmental Quality, Henry would be pleased
to discuss it with you objectively.

With kindest and best personal regards,
I am

Sincerely,



Jimmy Bishop

JAB/ea

THE PRESIDENT HIS CLERK

JAMES A. BISHOP

FIRST FEDERAL PLAZA

BRUNSWICK, GEORGIA 31520

February 18, 1977

Sta-
status?
J

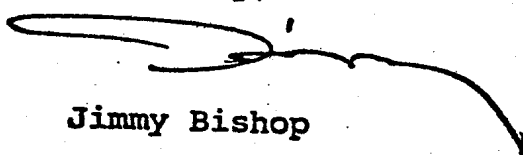
Honorable Jimmy Carter-Dasher
President of the United States of America
The White House
1600 Pennsylvania Avenue
Washington, D. C. 20013

Dear Mr. President:

If something relating to the Lake Alma
project comes to you from the Council On
Environmental Quality, Henry would be pleased
to discuss it with you objectively.

With kindest and best personal regards,
I am

Sincerely,



Jimmy Bishop

JAB/ea

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Frank Moore -

The attached is for your
information.

Rick Hutcheson

cc to Shipping

THE WHITE HOUSE
WASHINGTON

2-25-77

To Chairman Mahon

I really thank you
for your help with the
rescission question yester-
day, and hope that the
full committee will be
able to support my pos-
ition.

Your help with the
intelligence question was
also very important.

Your friend
Jimmy

THE WHITE HOUSE
WASHINGTON

Rich - - for files -
Best land delivered
original by hand
to the Congressman
-- Susan

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Charles Schultze

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

Re: Labor/Business Advisory
Committee.

THE WHITE HOUSE
WASHINGTON

2-25-77

To Charles Schultze

Comment on setting
up the Labor / Business
advisory Committee on
which Meany has
commented.

J

THE WHITE HOUSE
WASHINGTON

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON

- ☐ FOR STAFFING
- ☐ FOR INFORMATION
- ☐ TO PRESIDENT
TODAY

ACTION	FYI	
		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		H. CARTER
		CLOUGH
		FALLOWS
		HARDEN
		HOYT
		KRAFT
		B. MITCHELL
		B. RAINWATER
		SCHLESINGER
		SCHNEIDERS
		SIEGEL
		T. SMITH
		WELLS
		VOORDE

*cc
Schultz
Action*

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Charles Schultze

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

Re: Labor/Business Advisory
Committee.

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Bert Lance

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Frank Moore

Re: Congressman Breckinridge

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

2-24-77

To Bert Lance

Please contact Cong.
Buckinridge (Ky) re a
rural development proposal.

J.C.

THE WHITE HOUSE
WASHINGTON

cc Mr. Mondale

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON

- ☐ FOR STAFFING
- ☒ FOR INFORMATION
- ☐ TO PRESIDENT
TODAY

ACTION	FYI	
		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		H. CARTER
		CLOUGH
		FALLOWS
		HARDEN
		HOYT
		KRAFT
		B. MITCHELL
		B. RAINWATER
		SCHLESINGER
		SCHNEIDERS
		SIEGEL
		T. SMITH
		WELLS
		VOORDE

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Mrs. Mondale -

The attached was returned in the
President's outbox. It is forwarded
to you for appropriate handling.

Rick Hutcheson

Re: Signature for University of
Oregon

THE WHITE HOUSE
WASHINGTON

2-25-77

To the University of
Oregon

Jimmy Carter

THE WHITE HOUSE
WASHINGTON

*TO HAN
TODAY - FR*

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
X		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON

- ☐ FOR STAFFING
- ☐ FOR INFORMATION
- ☐ TO PRESIDENT
TODAY

ACTION	FYI	
		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		H. CARTER
		CLOUGH
		FALLOWS
		HARDEN
		HOYT
		KRAFT
		B. MITCHELL
		B. RAINWATER
		SCHLESINGER
		SCHNEIDERS
		SIEGEL
		T. SMITH
		WELLS
		VOORDE

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Greg Schneiders

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

Re: Report on Mail room.

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Hamilton Jordan

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

Re: Navy Renogiation Board

THE WHITE HOUSE
WASHINGTON

2-25-77

Ham.

Let's firm up
Navy Renegotiation
Board Monday -

J

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Z. Brzezinski -

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

Re: Meeting with Henry Kissinger

cc: Tim Kraft

THE WHITE HOUSE
WASHINGTON

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON

- ☐ FOR STAFFING
- ☐ FOR INFORMATION
- ☐ TO PRESIDENT
TODAY

ACTION	FYI	
		ARAGON
		BOURNE
X		BRZEZINSKI
		BUTLER
		H. CARTER
		CLOUGH
		FALLOWS
		HARDEN
		HOYT
X		KRAFT
		B. MITCHELL
		B. RAINWATER
		SCHLESINGER
		SCHNEIDERS
		SIEGEL
		T. SMITH
		WELLS
		VOORDE

THE WHITE HOUSE
WASHINGTON

2-25-77

3615 -

At convenient time,
maybe next week
or soon thereafter, set
up Kissinger, you, me,
& Nancy,
Cy to have supper
with my family &
talk a while afterwards.

J

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for Preservation Purposes

THE WHITE HOUSE
WASHINGTON

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON

- ☐ FOR STAFFING
- ☐ FOR INFORMATION
- ☐ TO PRESIDENT
TODAY

ACTION	FYI	
		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		H. CARTER
		CLOUGH
		FALLOWS
		HARDEN
		HOYT
		KRAFT
		B. MITCHELL
		B. RAINWATER
		SCHLESINGER
	X	SCHNEIDERS
		SIEGEL
		T. SMITH
		WELLS
		VOORDE

THE WHITE HOUSE
WASHINGTON

2-25-77

To Greg Schneider
Give me a brief
status report on
the mail room -
backlog, etc.

J. C.

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Zbigniew Brzezinski
Jack Watson
Mark Siegel

The attached is forwarded to you
for your information.

Rick Hutcheson

Re: Phone conversation with
Juanita Kreps.

THE WHITE HOUSE
WASHINGTON

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
	<input checked="" type="checkbox"/>	WATSON

- ☐ FOR STAFFING
- ☒ FOR INFORMATION
- ☐ TO PRESIDENT
TODAY

ACTION	FYI	
		ARAGON
		BOURNE
	<input checked="" type="checkbox"/>	BRZEZINSKI
		BUTLER
		H. CARTER
		CLOUGH
		FALLOWS
		HARDEN
		HOYT
		KRAFT
		B. MITCHELL
		B. RAINWATER
		SCHLESINGER
		SCHNEIDERS
	<input checked="" type="checkbox"/>	SIEGEL
		T. SMITH
		WELLS
		VOORDE

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

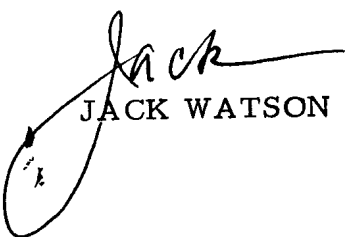
8:30 a.m.
February 24, 1977

MR. PRESIDENT:

RE: Telephone Conversation with Juanita Kreps

I spoke with Juanita this morning and she mentioned the following items:

1. Following her visit to North Carolina to testify on the ERA, Juanita suggests that you might want to call Governor Jim Hunt to thank him for his leadership on the issue. (Juanita is not at all sure he is giving much leadership and, in fact, thinks a call from you might "stiffen his spine.")
2. She had a pleasant visit with the Romanian Ambassador and the Romanian Trade Representative primarily to talk about increased trade between the United States and Romania. It was a very good meeting and they also talked approvingly of your comments on human rights.
3. The difficulty between HUD and Commerce concerning jurisdictional problems with EDA have been worked out between Pat and Juanita.


JACK WATSON

**Electrostatic Copy Made
for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

February 25, 1977

Secretary Blumenthal thru
Jack Watson

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Bob Lipshutz

Re: Secret Service Protection
for new grandchild

THE WHITE HOUSE
WASHINGTON

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
		JORDAN
X		LIPSHUTZ
		MOORE
		POWELL
X		WATSON → D/um

- ☐ FOR STAFFING
- ☐ FOR INFORMATION
- ☐ TO PRESIDENT
TODAY

ACTION	FYI	
		ARAGON
		BOURNE
		BRZEZINSKI
		BUTLER
		H. CARTER
		CLOUGH
		FALLOWS
		HARDEN
		HOYT
		KRAFT
		B. MITCHELL
		B. RAINWATER
		SCHLESINGER
		SCHNEIDERS
		SIEGEL
		T. SMITH
		WELLS
		VOORDE

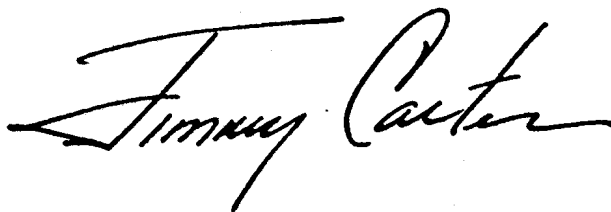
THE WHITE HOUSE
WASHINGTON
February 25, 1977

MEMORANDUM FOR SECRETARY MICHAEL BLUMENTHAL

Pursuant to 18 U.S.C., Section 3056, I would like the U.S. Secret Service to take protection of my second grandchild upon its birth at Bethesda Naval Hospital until this grandchild moves to the White House.

There is no need for individual protection to continue during the first several months of my grandchild's life at the official residence, and therefore I would like the Secret Service detail assigned to this grandchild to terminate upon the move from the hospital to the residence.

I will notify you when this member of my family again requires individual protection.

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the typed text.

cc: Mr. H. Stuart Knight
Director
U.S. Secret Service

Date: February 23, 1977

original
MEMORANDUM

FOR ACTION:

Stu Eizenstat
Ham Jordan
Bob Lipshutz
Frank Moore

FOR INFORMATION:

The Vice President
Midge Costanza
Jody Powell
Richard Harden
Robert Linder
Bert Lance

2/24

FROM: Rick Hutcheson, Staff Secretary

SUBJECT:

Jack Watson's memo 2/21/77 re:
PROPOSED ORGANIZATION OF ECONOMIC
POLICY GROUP

**YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:**

TIME: 11 A.M..
DAY: Friday
DATE: February 25

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

Gould 5084

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

Date: February 23, 1977

MEMORANDUM

F

FOR ACTION:

Stu Eizenstat
Ham Jordan
Bob Lipshutz
Frank Moore

FOR INFORMATION:

The Vice President
Midge Costanza
Jody Powell
Richard Harden
Robert Linder

122

xc: Bert
DAVID
Ginsburg

FROM: Rick Hutcheson, Staff Secretary

SUBJECT:

Jack Watson's memo 2/21/77 re:
PROPOSED ORGANIZATION OF ECONOMIC
POLICY GROUP

**YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:**

TIME: 11 A.M.

DAY: Friday

DATE: February 25

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE

WASHINGTON

February 21, 1977

MEMORANDUM TO: THE PRESIDENT
FROM: Jack Watson *Jack*
RE: PROPOSED ORGANIZATION OF
ECONOMIC POLICY GROUP

The attached memorandum to you from Mike Blumenthal and Charlie Schultze outlines the membership, structure and basic operational responsibility of an Economic Policy Group (EPG). As you know, there have been numerous discussions leading up to these proposals.

The critical jurisdictional questions concerning international economic policy-making have been worked out between Zbig and Cy Vance on the one hand and Mike and Charlie on the other. Although the Executive Committee of the EPG is somewhat larger than some would desire, I think it is workable.

Although the proposal comes to you from Mike and Charlie, it is concurred in by Messrs. Vance, Marshall, Lance, Brzezinski and Eizenstat and Ms. Kreps and Ms. Harris. I have assured all other members of the Cabinet that agenda for the meeting will be distributed to them beforehand so that they can attend any EPG meeting which deals with issues in which they are interested.

JHWJr;ply

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

February 12, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: MIKE BLUMENTHAL, CHARLIE SCHULTZE ^{WMB} ^{CLS}

SUBJECT: Proposed Organization of an Economic Policy Group

The following proposal outlines our final recommendations on proposed membership, basic structure, and the process for formulating recommendations to you within an Economic Policy Group (EPG).

I. Recommendations for membership

- That a single cabinet-level committee called the Economic Policy Group be created to help formulate and co-ordinate both domestic and foreign economic policy.
- That the Executive Committee of the group consist of the Secretaries of State, Treasury, Commerce, Labor, HUD, Council of Economic Advisers, the Director of the Office of Management and Budget, and the National Security Adviser.
- That the Vice President be an ex-officio member of the Executive Committee.
- That the Assistant to the President for Domestic Affairs and Policy be an ex-officio member of the Executive Committee.
- That the Secretary to the Cabinet attend all meetings as an ex-officio member, and insure that other members of the Cabinet, as well as the Assistant to the President for Energy, the Ambassador to the United Nations, and the Special Trade Representative, are invited to attend those EPG meetings that deal with issues in which they have a significant interest.



- The operation of the EPG should be less rigid than that of the Ford Administration's Economic Policy Board.

1. The EPG should meet weekly, on Monday, rather than four times weekly as the EPB did.

2. A small staff of three professionals and four clerical employees will be assigned from the staffs of the Treasury Department and CEA to assist the co-chairmen in co-ordinating EPG activities. This staff will advise the co-chairmen on the EPG agenda, manage the flow of reports and other paper, enforce deadlines, schedule meetings, and otherwise accept the burden of keeping this operation functioning smoothly.

3. Actual policy analysis will be carried out by groups of staff members and senior deputies from the several agencies involved in the EPG. Most of these groups will be created ad hoc to deal with specific problems as they arise. Final recommendations will be formulated by the EPG itself.

NOTE: The staff supporting the EPG would remain on the payrolls of the Treasury Department and the CEA. The General Counsel at the Office of Management and Budget advises that direct funding of the EPG staff would require a new statute. Any request for such a statute would, in our view, open the door for Congress to stipulate in the law the manner in which the EPG should operate. It is possible, but not likely that the appropriations subcommittee which handles Treasury and CEA may not approve the method we have suggested above for providing an EPG staff. (If that happens, the only alternative that averts the need for a new statute and a direct appropriation is to put the EPG staff on the payroll of the White House, probably in the Cabinet Secretary's office.) We are sanguine, however, that the appropriations committees will not object to our proposals.

Keep off the road

well

CCA

[illegible]

regulär W/H staff

after the 10th Dec

III. Recommended Jurisdiction of an EPG

- All major economic policy issues should be coordinated through the EPG. In particular, we want to bring together in one place staffing and planning for both domestic and international issues.

A major aim of this proposal is to avoid duplication and competition in international economic policy making between EPG and NSC. Since the National Security Adviser or his economics deputy will serve on the Executive Committee of the EPG, NSC participation in the economic deliberations of that group would be constant. Membership of the EPG co-chairmen and the Director of OMB on the NSC also assures adequate economic input into NSC decisions.

Under this proposal, NSC would continue to be the primary forum for discussion of the political aspects of international economic issues, through the operations of its Policy Review Committee or its Special Co-Ordinating Committee. NSC routinely will ask EPG to take on the staffing and analysis of international economic issues, however, retaining the option to review EPG recommendations for their political impact before those recommendations are forwarded to you.

An example of how the NSC-EPG arrangements would work in one situation is attached.

Illustration of NSC and EPG Coordination of International
Economic Issues

- 1) The question of whether or not to hold an Economic Summit Meeting would be addressed in the Policy Review Committee of the NSC since that decision involves substantial political, as well as economic considerations.
- 2) If PRC decided that an Economics Summit Meeting should be held, staffing of the underlying economic issues for the meeting would be handled through EPG. Staffing on such questions as sterling balance, Italy's economics situation, international commodity policy, debt overhang, etc. would be divided among members of the EPG for appropriate analysis and summary.
- 3) Once the EPG completed its recommendations, the subject would be returned to the Policy Review Committee before going to the President. If there were some disagreement in the PRC concerning the policy recommendations of EPG, the matter would not go to the President without further discussion in the NSC.

THE WHITE HOUSE
WASHINGTON

February 24, 1977

MEMORANDUM FOR:

THE PRESIDENT
THE VICE PRESIDENT

FROM:

BRUCE KIRSCHENBAUM *BK*

SUBJECT:

Meeting With State Legislators
Friday, February 25, 1977
3:30 p.m., Cabinet Room

*OK -
jw*

- X
Martin Sabo, Speaker of the House in Minnesota and President of the National Conference of State Legislatures will begin the meeting by describing their organization as representing 7,600 state legislators, being headquartered in Denver, Colorado, with a budget of nearly \$3 million.

He will then present their concerns and hopes for a strong working relationship with the White House and the special concerns of state legislators concerning federal programs:

- a. Increased involvement in how a state spends its federal funds. (A recent Pennsylvania court decision gave the state legislature the right to "appropriate" the federal monies going into that state. Last year they were nearly successful in having the Congress give them the power to approve LEAA state plans but instead were given review and comment power.)
- b. Asking the President to direct each Cabinet officer to establish a high ranking, policy-level inter-governmental relations office. (Jack Watson has been consulting with Cabinet members on this issue.)
- c. Asking for stronger relations from Regional Offices with state legislators. (At your direction, Jack Watson is undertaking a review of Regional Offices in cooperation with each department.)

THE WHITE HOUSE
WASHINGTON

February 23, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT

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SUBJECT: ENERGY REORGANIZATION LEGISLATION

I have carefully reviewed the energy reorganization legislation and believe it to be sound and well-balanced particularly in the delicate area of leasing of publically-owned lands and resources. The Secretary of Interior retains general authority over the environmental and multiple-use aspects of leasing while the Energy Department receives sufficient authority to make use of the leasing "carrot" to effectively deal with the oil and gas companies. My staff has worked closely with Dr. Schlesinger's staff, and I do not believe there are any outstanding issues between us.

There are four potentially controversial areas which you should be aware of, although I believe that the decision reflected in the legislation is the correct one in each case.

1. The department does not include non-energy minerals as was originally discussed with Senators Jackson and Ribicoff. Since we have not included full control of energy minerals (the leasing issue) within the new Energy Department, it makes little sense to include the entirely separate function of managing non-energy minerals. While I understand that there was some concern to "save face" with Senator Jackson in return for his agreement to abandon the concept of a Department of Energy and Natural Resources (DENR), Jim Schlesinger feels this is no longer a problem. I have no reason to disagree with that judgment. Further, I understand from Senator Ribicoff's staff that he does not feel strongly about a DENR.
2. When compared to the Department of Interior, the new Department may appear to be somewhat top heavy in terms of the number of officials at the level of

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Assistant Secretary and above. This could be seen as undermining your call for "cutting the fat" out of government. It could also be taken, albeit wrongly, by those sensitive to the relationship between the Interior and Energy Departments as a sign that Energy will become dominant. I do not believe that the comparison with Interior is valid since that Department's internal structure is widely regarded as confused and somewhat archaic. Newer departments, such as Transportation or Housing and Urban Development, have similar numbers of top officials and the Energy Department would be consistent with these precedents. It makes little sense to design a new department based upon the existing structure of an older department such as Interior, which has a substantially different mission.

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top heavy*

3. The Leasing Liaison Committee, established as the Energy Department's go between with Interior, may be viewed by the environmental community as an institutionalized watchdog over the Interior Department's leasing functions. This is in part true, although the Energy Department can exercise the same functions with or without the Committee. On the plus side, establishing a formal Leasing Committee gives the Energy Department's role in this area higher visibility, particularly to the oil and gas industry. I know that Jim Schlesinger feels that a prominent role in leasing will be an important tool in dealing with the energy companies, and I would agree that this is of sufficient value to overcome any perceived environmental objections.
4. Combining the economic regulatory powers of the the Federal Power Commission with the Energy Department drew some criticism from Congress and from consumer groups during the campaign. I believe that these objections have largely dissipated given the insulation of the economic regulatory functions from political control as the bill provides. This should not continue to be a major problem although it may still raise some questions in the House.

We are now working on a message to support this proposed legislation with Jim Schlesinger's staff, and we will have it to you shortly.

OUTLINE OF DRAFT
LEGISLATION

OUTLINE OF DRAFT LEGISLATION
TO CREATE A DEPARTMENT OF ENERGY

I. Components of the Department

The Bill proposes creation of a Department of Energy, with the following major structural Components:

- The Federal Energy Administration
- The Energy Research and Development Administration
- The Federal Power Commission
- Certain programs and functions from the Interior Department:
 - The four regional power marketing Administrations (Bonneville, Alaska, Southwest and Southeast) and the power marketing functions of the Bureau of Reclamation
 - Certain programs of the Bureau of Mines--i.e., the fuels data program (which collects and analyses data principally on fossil fuels) and research and development programs relating to improvements in coal mining extraction technology, coal preparation and analysis, and technology development for equipment for surface mining
 - Certain responsibilities relating to leasing of energy minerals onshore and offshore, as outlined further below
 - Policy control over the rate of the exploration program, to be conducted by Interior, in the Naval Petroleum Reserve in Alaska
- The existing statutory authorities for the thermal efficiency standards program, now vested in the Secretary of HUD (these authorities relate to development by late 1979 of standards for commercial and residential buildings; implementation of these standards, pursuant to Energy Department policy guidelines, would continue in HUD)

- Existing Commerce Department programs to promote voluntary industrial energy conservation
- The jurisdiction over and administration of the three Naval petroleum reserves in California and Wyoming, and three Naval oil shale reserves in Colorado and Utah, currently in the Defense Department
- The authorities vested in the SEC through the Public Utility Holding Company Act of 1935 to regulate mergers in the electric utility industry
- The authorities currently vested in the ICC to regulate the valuation of oil pipelines, on which rate-making decisions are based.

In addition, the Energy Department will have an advisory role in recommending goals in the automobile efficiency standards program to the Secretary of Transportation who will continue to have primary responsibility for the program, and will have a right of concurrence on approval of REA loans to ensure their coordination with national energy conservation policy.

II. Public Lands Leasing

In the area of public lands leasing, a process arrangement between the Department of Energy and the Department of the Interior will be proposed. Under this arrangement, the actual leasing of resources will remain in the Interior Department, but policy control over broad goals of the process, and specific controls over certain procedures within the process, will reside in the Energy Department.

- (a) Each year the Energy Secretary will develop long-term production goals for Federally controlled onshore and offshore energy resources, resource by resource, with input from the Interior Secretary. The goals will be set taking into account reasonable lead times for the particular resource involved. If the Interior Secretary concludes a particular goal is unrealistic, the matter will be decided by the President.

- (b) General regulations governing the leasing program would be issued by DoI. However, regulations covering economic terms and conditions of the lease, listed below, will be established by DoE:
- . Competitive relationships among energy companies
 - . Alternative bidding systems
 - . Mandatory rates of production, emergency acceleration of production, direct control of production for resale
 - . General due diligence regulations.
- (c) Issuance of specific lease-by-lease terms and conditions will be done by DoI, with DoE approval required only for those areas of individual lease agreements covered by the general regulations set by DoE in (b), above.
- (d) In the post-lease period, DoE will fix production rates for the energy resources (including MER's and MPR's). DoE will have authority to monitor the Geological Survey's work and perform work of its own to determine if production rates are being followed, and to recommend cancellation or forfeiture of the lease to the Interior Secretary, in accordance with applicable law and terms of the lease. If the Interior Secretary determines that the lease will not be cancelled or forfeited, his reasons for that determination must be published in the Federal Register within 90 days.
- (e) DoI will make all data gathered in the leasing process available to DoE.
- (f) A Leasing Liaison Committee will be established, with a Presidential appointee as its head (coming from the Energy Department) and membership from the Energy Department. The Committee will act as a vehicle for DoE to be fully informed at all
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stages of the leasing process, and for DoE, through the Secretary, to make recommendations to DoI on matters relating to leasing (in addition to the specific authority given DoE above), with a right of referral by the Secretary to the President if he feels that actions or failure to act by DoI on matters recommended to it are adverse to the responsibilities of DoE.

III. Insulation of Regulatory Functions

One of the goals implicit in consolidating energy economic regulatory functions in the proposed Energy Department is to ensure adequate insulation of these functions to avoid improper influence on individual decisions, while providing a more integrated policy framework in which broader decisions of the FEA and FPC can be made.

The legislation meets these concerns as follows:

- (a) A Board of Appeals is established, with three Presidential appointees for four year terms, removable only for cause. This Board would be the final decision-maker within the Department on all matters relating to granting of hydro-electric power licenses and certificates of public convenience and necessity for natural gas pipelines. Both of these functions are currently under the jurisdiction of the FPC. In addition, the Board would receive for its review any contested case adjudications involving determination of individual rights. These types of proceedings would be conducted initially by Administrative Law Judges, who are not under the control of the Secretary, and appeal would then be taken ~~to the~~ to the Board of Appeals, also free of Secretarial control. Further appeal would then lodge in the courts.
- (b) The bill retains Secretarial flexibility in determining the manner in which large portions of the Department's regulatory workload will be performed, thereby attempting to streamline procedures while continuing to provide all due process rights in those procedures. Thus, it is anticipated that the Secretary will proceed to shift more of the workload involving economic

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regulation to a rule-making procedure, under which broader policy can be set forth, while preserving the independence of the case-by-case process through the Board of Appeals described above.

IV. Internal Structure

The legislation will call for creation of a Department with all authorities vested in the Secretary. Other statutory officers to be created will be a Deputy Secretary, two Under Secretaries (one for policy and program evaluation and one for management), eight Assistant Secretaries, including statutory designation of an Assistant Secretary for Conservation and an Assistant Secretary for Environment), an Energy Data Administration and an Energy Regulatory Administration. All of these officers will be Presidentially appointed, with Senate confirmation.

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The Energy Data Administration will be statutorily vested with primary, though not exclusive, jurisdiction over the data collection and analysis functions of the Department. The legislation will specify that the functions vested in the Office of Energy Information at FEA by the Energy Conservation and Production Act will be vested in the Administrator of the Energy Data Administration. The Administration will be subject to the same types of requirements, including performance audit review, as were established in ECPA.

The Energy Regulatory Administration will exercise the present regulatory powers of the FEA (on petroleum pricing and allocations) and the FPC, and will be subject to the insulation of certain of its responsibilities through the Board of Appeals described above.

A governing principle in describing the responsibilities of the major line operating entities within the Department is to attempt to allocate resources in such a manner that no one component can dominate the others. Thus, the present ERDA programs and activities will be moved to those line entities within the Department in which they can best be undertaken. For example, the major energy conservation R and D programs which ERDA now undertakes would


become the responsibility of the Assistant Secretary for Conservation. This, however, would still leave the line entity responsible for technology development with significant responsibilities (primarily in the areas of fossil fuel R and D and nuclear R and D), while reducing substantially the potential for dominance by that technology entity over the entire department.

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

21 February 1977

FOR THE PRESIDENT

FROM: Jim Schlesinger 

SUBJECT: Energy Legislation

Attached is a draft bill for the creation of an energy department. You indicated your desire to see the bill at as early a moment as possible.

While there continue to be a number of areas in which further adjustments will have to be made, the legislation seems to be in reasonably good shape.

We shall continue to drive for a 1 March submission date.

Attachment

A B I L L

To establish a Department of Energy in the Executive Branch by the reorganization of energy functions within the Federal government in order to secure effective management to assure a coordinated National energy policy and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy Organization Act."

TITLE I

DECLARATION OF PURPOSE

Sec. 101. The purposes of this Act are (1) to establish a permanent Department of Energy in the executive branch, (2) to vest in the Secretary of Energy such functions as are vested in or transferred to him by this Act, (3) to achieve, through the Department, effective management of energy functions of the Federal government, and (4) to provide the mechanism through which a coordinated National energy policy can be formulated and implemented to deal with the short-, mid-, and long-term energy problems of the Nation.

TITLE II

ESTABLISHMENT OF DEPARTMENT

Sec. 201. There is hereby established at the seat of government an executive department to be known as the Department of Energy (hereinafter in this Act referred to as

the "Department"). There shall be at the head of the Department, a Secretary of Energy (hereinafter in this Act referred to as the "Secretary") who shall be appointed by the President by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

Sec. 202. There shall be in the Department a Deputy Secretary, two Under Secretaries, eight Assistant Secretaries, and a General Counsel, each of whom shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time. One of the Assistant Secretaries specified by this section shall be an Assistant Secretary for Conservation, another shall be an Assistant Secretary for Environment and another shall be an Assistant Secretary for Energy Technology.

Sec. 203. The Deputy Secretary shall act for, and exercise the functions of, the Secretary during the absence or disability of the Secretary or in the event the Office of Secretary becomes vacant. The Secretary shall designate the order in which the Under Secretaries and other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Deputy Secretary or in the event of vacancies in both of those offices.

Sec. 204. (a) There shall be within the Department an Energy Information Administration to be headed by an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall delegate to the Administrator (which delegation may be on a nonexclusive basis as the Secretary may determine) the functions vested in him by law to gather energy information (as defined in section 51(c) of the Federal Energy Administration Act of 1974, as amended), and the Administrator may act in the name of the Secretary for the purpose of obtaining enforcement of the delegated function.

Sec. 205. (a) There shall be within the Department an Economic Regulatory Administration to be headed by an Administrator, who shall be appointed by the President by and with the advice and consent of the Senate.

(b) The Secretary shall exercise through the Economic Regulatory Administration--

(1) any authority to prescribe maximum prices and to allocate petroleum products which may be delegated to the Secretary under the Emergency Petroleum Allocation Act of 1973, as amended;

(2) the authority transferred to him by section 301 of this Act to establish rates and charges under the Federal Power Act and the Natural Gas Act; and

(3) such other authority as he may consider appropriate as may be vested in or delegated to him, including the authority to issue licenses under the Federal Power Act and certificates under section 7 of the Natural Gas Act.

TITLE III

TRANSFERS OF FUNCTIONS

Sec. 301. Except as otherwise provided in this Act, there are hereby transferred to and vested in the Secretary all of the functions vested by law in the Administrator of the Federal Energy Administration or the Federal Energy Administration (except those functions transferred by section 305), the Administrator of the Energy Research and Development Administration or the Energy Research and Development Administration, and the Federal Power Commission or the Chairman and members of the Commission; and the functions vested by law in the officers and components of those agencies and commission.

Sec. 302. Subject to the remaining provisions of this section, there are hereby transferred to and vested in the Secretary:

(a) All functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department, as relate to or are utilized by the Southeastern Power Administration, the Southwestern Power Administration, and the Bonneville Power Administration.

The authority for the functions so transferred includes, but is not limited to, section 5 of the Flood Control Act of 1944, as amended, the Bonneville Project Act of 1937, and the Federal Columbia River Transmission System Act;

(b) Such functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department as relate to or are utilized by the Alaska Power Administration for the transmission and disposition (including acquisition by purchase or exchange) of electric power and energy and by the Bureau of Reclamation for the disposition (including acquisition by purchase or exchange) of electric power and energy; Provided, that the authority for and function of operating the dams constructed pursuant to the Eklutna Project Act and section 204 of the Flood Control Act of 1962 shall remain in the Secretary of the Interior. The authority for the functions so transferred includes, but is not limited to, the Eklutna Project Act, section 204 of the Flood Control Act of 1962, the Reclamation Act of 1902, and acts amendatory thereof and supplementary thereto, including but not limited to the authority for the sale of electric power or lease of power privileges under section 9(c) of the Reclamation Project Act of 1939, and the authority under section 303 of the Colorado River Basin Project Act;

(c) All the authority of the Secretary of the Interior, the Department of the Interior, and officers and components

of that Department for the transmission and disposition of the electric power and energy generated at Falcon Dam and Amistad Dam, international storage reservoir projects constructed on the Rio Grande pursuant to the Act of June 19, 1954, as amended by the Act of December 23, 1963;

(d) The authority of the Secretary of the Interior to prescribe such regulations under the Outer Continental Shelf Lands Act, the Mineral Lands Leasing Act, the Mineral Leasing Act for Acquired Lands, the Geothermal Steam Act of 1970, and the Energy Policy and Conservation Act, as relate to the (1) fostering of competition for Federal leases (including but not limited to prohibition on bidding for development rights by certain types of joint ventures), (2) implementation of alternative bidding systems authorized for the award of Federal leases, (3) establishment of diligence requirements for operations conducted on Federal leases (including but not limited to procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements), (4) setting of rates of production for Federal leases, and (5) specifying the procedures, terms and conditions for the acquisition and disposition of Federal royalty interests taken in kind; Provided, that the terms of such regulations shall be determined by the Secretary only after consultation with the Secretary of the Interior; and

Provided further, that the Secretary of the Interior shall publish in the Federal Register such regulations as are established by the Secretary under this subsection;

(e) Those functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department under the Act of May 16, 1910, and other authorities, exercised by the Bureau of Mines, but limited to:

(1) fuel supply and demand analysis and data gathering,

(2) research and development relating to increased efficiency of production technology of solid fuel minerals; Provided, that research relating to mine health and safety and research relating to the environmental and leasing consequences of solid fuel mining shall remain in the Department of the Interior, and

(3) coal preparation and analysis; and

(f) The functions of the Secretary of the Interior to establish production rates for all Federal leases.

Sec. 303. The authority of the Secretary of the Interior to establish terms and conditions for Federal leases under the Acts cited in subsection (d) of section 302 is amended to provide that approval of the Secretary of Energy must be obtained for all lease terms and conditions which (1) affect competition for such Federal leases (including but not limited to prohibition of bidding for

development rights by certain types of joint ventures), (2) relate to the bidding system authorized for award of Federal leases, (3) set diligence requirements for operations conducted on Federal leases (including but not limited to procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements), (4) set rates for production for Federal leases, and (5) specify the manner in which Federal Royalty interests may be taken in kind.

Sec. 304. (a) As used in sections 302 and 303 of this Act, "Federal lease" means an agreement which, in consideration of bonuses and royalties conferred and covenants to be observed, grants to a lessee the exclusive right and privilege of exploring for, developing, or producing, or any or all of these, oil and gas, coal, oil shale, tar sands, and geothermal resources on lands under Federal jurisdiction.

Sec. 305. All functions vested in the Director of the Office of Energy Information and Analysis by title I, Part C of the Energy Conservation and Production Act are hereby transferred to the Administrator of the Energy Information Administration.

Sec. 306. Except as otherwise provided in this Act, all functions vested in the Securities and Exchange Commission, or the Chairman or the members thereof, under the provisions of the Public Utility Holding Company Act of 1935, and under

the provisions of Reorganization Plan No. 10 of 1950 and Public Law 87-592, as approved August 20, 1962, insofar as said reorganization plan and Public Law 87-592 relate to the administration of the Public Utility Holding Company Act of 1935 are hereby transferred to the Secretary.

Sec. 307. Except as otherwise provided in this Act, there are hereby transferred to and vested in the Secretary all of the functions vested in the Secretary of Housing and Urban Development by the Energy Conservation Standards for New Buildings Act of 1976, title III of the Energy Conservation and Production Act.

Sec. 308. Except as otherwise provided in this Act, there are hereby transferred to and vested in the Secretary such functions as are set forth in the Interstate Commerce Act, as amended, and vested by law in the Interstate Commerce Commission or the Chairman and members thereof as they relate to oil pipeline valuation.

Sec. 309. Except as otherwise provided in this Act, there are hereby transferred to and vested in the Secretary all functions vested by Chapter 641 of of title 10, United States Code, in the Secretary of the Navy as they relate to the administration of, and there is hereby transferred to and vested in the Secretary jurisdiction over--

(1) Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive Order of the President, dated September 2, 1912;

(2) Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive Order of the President, dated December 13, 1912;

(3) Naval Petroleum Reserve Numbered 3 (Teapot Dome) located in Wyoming, established by Executive Order of the President, dated April 30, 1915;

(4) Oil Shale Reserve Numbered 1, located in Colorado, established by Executive Order of the President, dated December 6, 1916, as amended by Executive Order dated June 12, 1919;

(5) Oil Shale Reserve Numbered 2, located in Utah established by Executive Order of the President, dated December 6, 1916; and

(6) Oil Shale Reserve Numbered 3, located in Colorado, established by Executive Order of the President, dated September 27, 1924.

TITLE IV

BOARD OF APPEALS

Sec. 401. (a) There is hereby established within the Department a Board of Appeals (hereinafter in this Act referred to as the "Board") for the review of contested decisions of presiding employees with regard to the issuance of licenses pursuant to Part I of the Federal Power Act and certificates of public convenience and necessity pursuant to section 7 of the Natural Gas Act; for the review of decisions of presiding employees with regard to adjudications made

pursuant to 5 U.S.C. 556; and, for the review of decisions and other agency actions which the Secretary may assign to the Board by rule. The Board shall be comprised of three members appointed by the President by and with the advice and consent of the Senate. One of the members shall be designated by the President as Chairman. Members shall hold office for a term of four years and shall be removable for cause. The terms of the members first taking office shall expire as designated by the President at the time of appointment, one at the end of two years, one at the end of three years, and one at the end of four years. Appointment of members pursuant to this subsection shall be made in such a manner that not more than two members of the Board shall be members of the same political party.

(b) The Chairman of the Board shall exercise the executive and administrative functions of the Board, including functions of the Board with respect to (1) the selection and supervision of personnel employed by the Board; Provided, that each member of the Board may select and supervise such personnel for his personal staff, (2) the distribution of business among such personnel and among administrative units of the Board, and (3) the use and expenditure of funds.

(c) In the performance of their review functions the members of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigation or litigating functions for the Department.

(d) The decision of the Board shall be the final agency action within the meaning of section 704 of title 5, United States Code with respect to matters within the Board's jurisdiction and shall not be subject to further review by the Department.

(e) The Chairman of the Board may from time to time designate any other member of the Board as Acting Chairman to act in the place and stead of the Chairman during his absence. The Chairman (or the Acting Chairman in the absence of the Chairman) shall preside at all sessions of the Board and a quorum for the transaction of business shall consist of at least two members present. Each member of the Board, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Board, except as provided in section 401(b), shall have full access to all information relating to the performance of his duties or responsibilities, and shall have one vote. Actions of the Board shall be determined by a majority vote of the members present. The Board shall have an official seal which shall be judicially noticed.

Sec. 402. (a) No person in the employ of or holding any official relation to any licensee or to any person, firm, association, or corporation engaged in the production, generation, transmission, distribution, or sale of electric power, petroleum or petroleum products, natural gas, coal, or nuclear material, or owning stock or bonds thereof, or

who has any pecuniary interest therein, shall enter upon the duties of or hold the office of Board member. Members shall not engage in any other business, vocation, or employment.

(b) Each Board member shall receive necessary travel and subsistence expenses, or per diem allowance in lieu thereof, within the limitations prescribed by law, while away from the seat of government upon official business.

(c) The principal office of the Board shall be in or near the District of Columbia, where its general sessions shall be held; but whenever the convenience of the public or of the the parties may be promoted or delay or expense prevented thereby, the Board may hold special session in any part of the United States.

TITLE V

ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

Sec. 501. (a) Subject to the other requirements of this section, the provisions of subchapter II of Chapter 5 of title 5, United States Code, shall apply to any rule, regulation, or order issued pursuant to authority vested in the Secretary, including any such rule, regulation, or order of a State or local government agency or officer thereof, issued pursuant to authority delegated by the Secretary.

(b) In addition to the requirements of subsection (a) notice of any proposed rule or regulation shall be given by publication of such proposed rule or regulation in the Federal Register. In each case, a minimum of ten days

following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious harm or injury to the public health, safety, or welfare, and such finding is set out in detail in such rule or regulation. In addition, public notice of all rules or regulations described in subsection (a) which are promulgated by officers of a State or local government agency shall, to the maximum extent practicable, be achieved by publication of such rules or regulations in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(c) In addition to the requirements of subsection (b), if any rule or regulation described in subsection (a) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the issuance of such rule or regulation but in all cases such opportunity shall be afforded no later than forty-five days after the issuance of any such rule or regulation. A transcript shall be kept of any oral presentation.

(d) The Secretary or any officer authorized to issue rules, regulations, or orders under the Emergency Petroleum Allocation Act of 1973, as amended, the Energy Supply and

Environmental Coordination Act of 1974, as amended, or the Energy Policy and Conservation Act, shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation.

(e)(1) With respect to any rule or regulation of the Secretary the effects of which, except for indirect effects of an inconsequential nature, are confined to--

(A) a single unit of local government or the residents thereof;

(B) a single geographic area within a State or the residents thereof; or

(C) a single State or the residents thereof; the Secretary shall, in any case where appropriate afford an opportunity for a hearing or the oral presentation of views and provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in paragraphs (A) through (C), as the case may be.

(2) For purposes of this subsection--

(A) the term "unit of local government" means a county, municipality, town, township, village, or other unit of general government below the State level; and

(B) the term "geographic area within a State" means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

(3) Nothing in this subsection shall be construed as requiring a hearing or an oral presentation of views where none is required by this section.

(f)(1) Judicial review of agency action taken under any law the functions of which are transferred to the Secretary by this Act shall, notwithstanding such transfer, be available in the manner specified in such law.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under rules, regulations, or orders issued exclusively thereunder, except any actions taken to implement or enforce any rule, regulation, or order by any officer of a State or local government agency under this Act: Provided, that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the unconstitutionality of this Act or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the unconstitutionality of this Act or the validity of agency

action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of Chapter 89 of title 28, United States Code. Cases or controversies arising under any rule, regulation, or order of any officer of a State or local government agency may be heard in either (1) any appropriate State court, or (2) without regard to the amount in controversy, the district courts of the United States.

(3) The Secretary may, by rule, prescribe procedures for State or local government agencies authorized by the Secretary to carry out such functions as may be permitted under applicable law. Such procedures shall apply to such agencies in lieu of section 501, and shall require that prior to taking any action, such agencies shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least ten days before taking the action.

Sec. 502. (a) In lieu of procedures established by section 501, the Secretary may, by rule, if he determines it to be in the public interest, utilize such administrative procedures as may be specified in any other law to carry out functions under that law which are transferred to the Secretary by this Act.

TITLE VI

ADMINISTRATIVE PROVISIONS

Sec. 601. There is established a Leasing Liaison Committee consisting of--

(a) a Chairman, who shall be the head thereof and who shall be appointed by the President, by and with the advice and consent of the Senate, who shall serve at the pleasure of the President and shall be an officer of the Department; and

(b) representatives from the Department as determined by the Secretary who shall serve without additional compensation.

The Chairman of the Committee may designate one of the members of the Committee as Acting Chairman to serve during his absence. The Department of Interior shall advise and consult with the Secretary, through the Committee, on all matters with regard to Federal leasing relating to energy resources, and shall keep the Secretary, through the Committee, fully and currently informed of all such matters before the Department of the Interior. The Secretary, through the Committee, shall have the authority to make recommendations to the Department of the Interior on such matters relating to Federal leasing as the Secretary may deem appropriate. If the Secretary concludes that any action or failure to act on the part of the Department of the Interior is adverse to the responsibilities of the Department, the Secretary shall

refer the matter to the President, whose decision shall be final.

Sec. 602. (a) Each officer or employee of the Department who has any known financial interest--

(1) in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline, or distributing (other than at the retail level) coal, natural gas, or petroleum products;

(2) in property from which coal, natural gas, or crude oil or nuclear material is commercially produced;

(3) in any person engaged in the production, generation, transmission, distribution or sale of electric power; or

(4) in any person engaged in production, sale, or distribution of nuclear materials;

shall, beginning on February 1, 1978, annually file with the Secretary a written statement disclosing all such interests held by such officer or employee during the preceding calendar year. Such statement shall be subject to examination, and available for copying, by the public upon request.

(b) The Secretary shall--

(1) act, within 90 days after the effective date of this Act, by rule--

(A) to define the term "known financial interest" for purposes of subsection (a); and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) include, as part of the report made pursuant to section 626, a report with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b), the Secretary may identify specific positions, or classes thereof, within the Department which are of a nonregulatory and nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, subsection (a) shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

Sec. 603. The Secretary is authorized to prescribe such policies, standards, criteria, procedures, rules, and regulations as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in him.

Sec. 604. (a) Except as otherwise expressly prohibited by law, the Secretary may delegate any of his functions to

such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary and appropriate.

(b) Except as otherwise expressly prohibited by law, the Secretary may, with the consent of the head of the department or agency concerned, delegate any function vested in him to the head of such other department or agency, and may authorize such successive redelegation thereof as he may deem to be necessary and appropriate. Funds made available to the Secretary or the Department may be allocated or transferred, with the approval of the Director of the Office of Management and Budget, to any department or agency assisting the Secretary in carrying out any functions delegated pursuant to this subsection. Funds so allocated or transferred shall remain available for such period as may be specified in the Acts making such funds available.

Sec. 605. The Secretary is authorized to establish, alter, consolidate or discontinue and to maintain such State, regional, district, local or other field offices as he may deem to be necessary to carry out functions now or hereafter vested in him.

Sec. 606. The Secretary may, from time to time, establish, alter, or discontinue such organizational units or components within the Department as he may deem to be necessary or appropriate: Provided, however, that such authority shall not extend to the abolition of organizational units established by this Act.

Sec. 607. In the performance of his functions the Secretary is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with the Classification Act of 1949, except that to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than six hundred of the scientific, engineering, professional and administrative personnel of the Department without regard to such laws, and may fix the compensation of such personnel not in excess of the highest rate of grade 18 of the General Schedule of the Classification Act of 1949, as amended.

Sec. 608. (a) There shall be within the Department not more than fourteen additional officers in positions authorized by sections 5315 and 5316 of title 5, United States Code who shall be appointed by the Secretary and who shall perform such functions as the Secretary shall prescribe from time to time.

(b) In addition to the number of positions which may be placed in GS-16, 17 and 18 under existing law or this Act, not to exceed 150 positions may be placed in GS-16, 17, and 18 to carry out functions under this Act; Provided, that positions established by this subsection shall be subject to standards and procedures under Chapter 51 of title 5, United States Code.

Sec. 609. The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the maximum daily rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code for persons in Government service employed intermittently.

Sec. 610. The Secretary is authorized to appoint such advisory committees as he may deem appropriate to assist in the performance of his functions. Members of such advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the Secretary while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code for persons in the government service employed intermittently.

Sec. 611. (a) The Secretary is authorized to recruit, train, accept, and utilize, without regard to the civil service and classification laws, rules, and regulations, the services of individuals without compensation as volunteers for or to aid or facilitate the work of the Department.

(b) The Secretary is authorized to provide for incidental expenses, including but not limited to, transportation, uniforms, lodging, and subsistence for such volunteers.

(c) Except as otherwise provided in this section, a volunteer shall not be deemed to be a Federal employee and shall not be subject to the provisions of laws relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation and Federal employee benefits.

(d) For the purpose of the tort claim provisions of title 28 of the United States Code, a volunteer under this section shall be considered a Federal employee.

(e) For the purpose of Subchapter I of Chapter 81 of title 5, United States Code volunteers under this subsection shall be deemed civilian employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that Subchapter shall apply.

Sec. 612. (a) The Secretary is authorized to provide for participation of military personnel in carrying out his functions. Members of the Army, the Navy, the Air Force, or the Marine Corps may be detailed for service in the Department by the appropriate military Secretary, pursuant to cooperative agreements with the Secretary.

(b) Appointment, detail, or assignment to, acceptance of, and service in any appointive or other position in the Department under this section shall in no way affect status, office, rank, or grade which officers or enlisted men may occupy or hold or any emolument, prerequisite, right,

privilege or benefit incident to or arising out of such status, office, rank, or grade, nor shall any member so appointed, detailed or assigned be charged against any statutory limitation on strengths applicable to the Armed Forces. A member so appointed, detailed, or assigned shall not be subject to direction or control by his Armed Force or any officer thereof directly or indirectly with respect to the responsibilities exercised in the position to which appointed, detailed, or assigned.

Sec. 613. (a) With their consent, the Secretary may, with or without reimbursement, use the services, equipment, personnel, and facilities of persons or public and private nonprofit agencies and organizations, including any agency or instrumentality of the United States or of any State, the District of Columbia, Puerto Rico, or any territory or possession of the United States, or of any political subdivision thereof, or of any foreign government in carrying out any function now or hereafter vested in him.

(b) The Secretary may, with or without reimbursement, provide service, equipment, personnel, and facilities to public and private nonprofit agencies and organizations, including any agency or instrumentality of the United States or any State, territory, the Commonwealth of Puerto Rico, the District of Columbia, or political subdivision thereof, or to any foreign government whenever he deems such action to be necessary and appropriate to the performance of functions now or hereafter vested in him.

(c) Proceeds from reimbursements under this subsection shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the services, equipment, personnel, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or a part of such costs, or to refund excess sums when necessary: Provided, that such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 622 of this Act, and used under the law governing such fund, if the fund is available for use for providing the services, equipment, personnel, or facilities involved.

Sec. 614. The Secretary is authorized to enter into and perform such contracts, leases, grants, cooperative agreements or other similar transactions with public agencies and private organizations and persons; make such payments (in lump sum or installments, and in advance or by law of reimbursement, and, in cases of grants, with necessary adjustment on account of overpayments and underpayments); and generally perform such functions, take such steps, and exercise such authority as he may deem to be necessary or appropriate to carry out functions now or hereafter vested in the Secretary.

Sec. 615. The Secretary is authorized to acquire (by purchase, lease condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, and such other real and personal property (including patents), or any interest therein, as the Secretary deems necessary; to acquire by purchase, lease (for periods not to exceed twenty years, and without regard to the Act of March 3, 1877), condemnation, or otherwise, through the Administrator of General Services, buildings and parts of buildings in or near the District of Columbia for the use of the Department; to lease to others such real and personal property for money or other consideration; to sell and otherwise dispose of real and personal property (including patents and rights thereunder) in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health, and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

Sec. 616. Notwithstanding any other provision of law, the Secretary may, whenever he deems such action to be in the public interest, for money or other consideration sell, lease, or otherwise dispose of any interest in any special purpose real property or personal property (including

property acquired with grant funds) of the Department and may make conditional or unconditional gifts thereof to any public service institution, Federal, State, local, or foreign agency.

Sec. 617. (a) As necessary and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote locations:

- (1) Emergency medical services and supplies;
- (2) Food and other subsistence supplies;
- (3) Messing facilities;
- (4) Audio-visual equipment, accessories, and supplies for recreation and training;
- (5) Reimbursement for food, clothing, medicine and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;
- (6) Living and working quarters and facilities;
and
- (7) Transportation of school age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all of a part of such cost, or to refund excess sums when necessary; Provided, that such payments may be credited to a working capital fund otherwise established by law, and used under the law governing such funds, if the fund is available for use by the Department for performing the work or services for which payment is received.

Sec. 618. The Secretary, under such terms, at such rates, and for such period not exceeding fifty years, as he may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations or by individuals of any real property, or any facility, structure, or other improvement thereon, under the custody of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements involved to a satisfactory standard.

Sec. 619. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) Copyrights, patents, and applications for patents designs, processes, and manufacturing data;

(2) Licenses under copyrights, patents, and applications for patents; and

(3) Releases, before suit is brought, for past infringement of patents or copyrights.

Sec. 620. The Secretary is authorized to engage in such basic and applied research, development, and demonstration projects as he may deem necessary or appropriate to carry out the functions now or hereafter vested in him.

Sec. 621. The Secretary is authorized to accept, hold, administer, and utilize gifts, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to the United States.

Sec. 622. The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve and judicial notice shall be taken of such seal.

Sec. 623. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and

operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund. Appropriations to the fund in such amounts as may be necessary to provide additional working capital are authorized. The working capital fund shall recover from the appropriations and funds for which services are performed, either in advance or by way of reimbursement, amounts which will approximate the costs incurred, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of its property, and receipts in payment for loss or damage to property owned by the fund.

Sec. 624. To the extent necessary or appropriate to perform functions transferred by this Act, the Secretary may exercise, in relation to the functions so transferred, any authority or part thereof available by law, including Appropriation Acts, to the official or agency from which such functions were transferred.

Sec. 625. Except as may be otherwise expressly provided in this Act, all functions expressly conferred by this Act shall be in addition to, and not in substitution for, functions existing immediately before the effective date of this Act and transferred by this Act.

Sec. 626. (a) The Secretary shall, as soon as practical after the end of each Fiscal Year, commencing with the first complete fiscal year following the effective date of this Act, make a report to the President for submission to Congress on the activities of the Department during the preceding Fiscal Year. Such report shall include a statement of the Secretary's goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those goals, the effective and efficient management of the Department, and progress made in coordination of its functions with other Departments and agencies of the Federal Government. In addition, such report shall include:

(1) projected energy needs of the United States to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(4) a catalog of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices, and shall include recommendations for developing technologies capable of improving the quality of the environment and increasing efficiency;

(5) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices) employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this Act.

(b) Such report shall satisfy the reporting requirements of section 15 of the Federal Energy Administration Act, as amended, section 307 of the Energy Reorganization Act of 1974, as amended, and section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974.

Sec. 627. The Secretary shall, to the maximum extent feasible and in the public interest, honor existing collective bargaining agreements with exclusive employee representatives.

Sec. 628. The Secretary, when authorized in an appropriation act, in any Fiscal Year, may transfer funds from one appropriation to another within the Department; Provided, that no appropriation shall be either increased or decreased pursuant to this section more than 5 percent of the appropriation for such Fiscal Year.

Sec. 629. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE VII

TRANSITIONAL, SAVINGS AND CONFORMING PROVISIONS

Sec. 701. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred to the Secretary by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation.

(b) Positions expressly created by statute or Reorganization Plan, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation at the rate prescribed for offices and positions at Level I, II, III, IV, or V of the Executive Schedule (5 U.S.C. 5312-5316) on the effective date of this Act shall be subject to the provisions of section 705 of this Act.

Sec. 702. Except as otherwise provided in this Act, the transfer of full-time personnel (except special government employees) pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of enactment of this Act.

Sec. 703. Any person who, on the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5 of the United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in the new position.

Sec. 704. Employees transferred to the Department holding reemployment rights acquired under section 28 of the Federal Energy Administration Act of 1974, as amended, or any other provision of law or regulation may exercise such rights only within 120 days from the effective date of this Act.

Sec. 705. Except as otherwise provided in this Act, whenever all of the functions vested by law in an agency, commission or other body, or any component thereof, have been terminated or transferred from that agency, commission or other body, or component by title III of this Act, the agency, commission or other body, or component, shall terminate. If an agency, commission or other body, or any component thereof, terminates pursuant to the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at Level II, III, IV, or V of the Executive Schedule

(5 U.S.C. 5313-5316) shall terminate; Provided, that sections 7(a) and (b) of the Federal Energy Administration Act of 1974, as amended, shall remain in effect (except for the first proviso in paragraph (1) of section 7(a)).

Sec. 706. The Director of the Office of Management and Budget in consultation with the Secretary is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency, commission or other body, or component thereof affected by this Act, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act as he may deem necessary to accomplish the purposes of this Act.

Sec. 707. Except as provided in section 627 of this Act, all orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges--

(a) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act or by Executive Order to the Department after the date of enactment of this Act, and

(b) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary, the Board of Appeals, or other authorized officials, a court of competent jurisdiction, or by operation of law.

Sec. 708. (a) The provisions of this Act shall not affect any proceedings pending at the time this Act takes effect before any department, agency, commission, or component thereof functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(b) Except as provided in subsection (d)--

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(c) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States or such official of the Department as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(d) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the Secretary or other official, as the case may be, substituted.

Sec. 709. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected thereby.

Sec. 710. With respect to any functions transferred by the Act and exercised after the effective date of this Act, reference in any other Federal law to any department or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or other official in which this Act vests such functions.

Sec. 711. Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of, or authority available to, the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

Sec. 712. (a) The Federal Energy Administration Act of 1974, as amended, is hereby amended as follows:

(1) By repealing sections 4, 7 (except as provided in section 705 of this Act and paragraphs 2(A) and 2(B) of section 7(i)), 9, 17, 18(d), 28, 29, 30, 51(a)(1) and 53(a);

(2) Section 52(a) is amended by deleting the word "and" in paragraph (2), by deleting the period at the end of paragraph (3), and by adding at the end of the subsection:

"; and

(4) the States to the extent required by the Natural Gas Act and the Federal Power Act,"; and

(3) Section 55(b) is amended by changing the word "seven" to the word "six" and deleting the phrase "one shall be designed by the Chairman of the Federal Power Commission."

(b) The Energy Reorganization Act of 1974, as amended, is hereby amended as follows:

(1) By repealing section 108.

(2) By repealing section 305, to the extent that it applies to functions transferred to the Secretary by this Act; and

(3) By repealing section 308.

(c) Section 4(d) of the Federal Power Act is hereby repealed.

(d) The Atomic Energy Act of 1954, as amended, is hereby amended as follows:

(1) By repealing section 26; and

(2) By repealing section 161(d) as it relates to functions transferred by this Act.

(e) Section 502 of the Motor Vehicle Information and Cost Savings Act is amended by adding at the end thereof the following:

"(g) The Secretary shall consult with the Secretary of Energy in carrying out his responsibilities under this section.".

(f) The Energy Conservation Standards for New Buildings Act of 1976 is hereby amended as follows:

(1) In section 304 by adding "the Secretary of Housing and Urban Development" to the list of those with whom consultation is required; and

(2) In section 310 by adding "the Secretary of Housing and Urban Development" to the list of those with whom the Secretary shall act in cooperation with.

(g)(1) Section 12(e) of the Public Utility Holding Company Act of 1935 is repealed and subsections (f), (g), (h) and (i) of section 12 are redesignated as subsections "(e)", "(f)", "(g)", and "(h)", respectively.

(2) Section 15(e) of the Public Utility Holding Company Act of 1935 is amended by changing the period at the end thereof to a colon and adding thereafter the following words:

Provided, however, that nothing in this title shall limit the right or duty of any person to take any action necessary to comply with any applicable requirement under any Act administered by the Securities and Exchange Commission or any rule, regulation, or order of that Commission pursuant to any such Act.

(3) Section 16(b) of the Public Utility Holding Company Act of 1935 is amended to delete therefrom the words "except as provided in section 17(b)" and the commas which precede and follow these words.

(4) Sections 17(a) and (b) of the Public Utility Holding Company Act of 1935 are repealed and subsection (c) thereof is redesignated as section 17.

(5) Section 20 of the Public Utility Holding Company Act of 1935 is amended by deleting the first sentence of subsection (d) thereof and adding a new subsection (e). Sections 20(d) and (e) are amended to read as follows:

(d) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or order thereunder of the Commission or the Securities and Exchange Commission, notwithstanding that such rule, regulation, or order may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(e) Duplicate copies of any information or documents required to be filed with the Secretary under this title may also be filed with the Securities and Exchange Commission in compliance with the requirements of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Trust Indenture Act of 1939 to the extent specified in such rules and regulations or orders as the Securities and Exchange Commission may deem necessary or appropriate in the public interest or for the protection of investors.

(6) Section 21 of the Public Utility Holding Company Act of 1935 is amended to read as follows:

Sec. 21. Nothing in this title shall affect (1) the jurisdiction of the Securities and Exchange Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940 or Chapter X of the Bankruptcy Act, over any person, security, or contract, or (2) the rights, obligations, duties, or liabilities of any person under such Acts; nor shall anything in this title affect the jurisdiction of any other commission, board, agency, or officer of the United States or of any State or political subdivision of any State, over any person, security, or contract, insofar as such jurisdiction does not conflict with any provision of this title or any rule, regulation, or order thereunder.

(7) The last sentence of section 30 of the Public Utility Holding Company Act of 1935 is repealed.

(8) Section 318 of the Federal Power Act (16 U.S.C. 825q) is amended by deleting therefrom the words "Securities and Exchange."

(9) The Securities and Exchange Commission is authorized, in its discretion, by rule or regulation or order, to retain jurisdiction over any proceeding that may be pending at the effective date of this Act as it deems necessary or appropriate

in the public interest and the orderly transition of functions under this Act.

Sec. 713. The provisions of Chapter 31 of title 28, U.S. Code, shall apply to the relevant proceedings of the Department.

Sec. 714. (a) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Energy."

(b) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(14) Secretary of Energy."

(c) Section 5313 of title 5, United States Code, is amended by deleting "(22) Administrator of Energy Research and Development Administration," and inserting in lieu thereof:

"(22) Deputy Secretary of Energy."

(d) Section 5314 of title 5, United States Code, is amended by deleting "(22), Chairman, Federal Power Commission," by deleting "(60), Deputy Administrator, Energy Research and Development Administration," and by adding at the end of the section the following:

"(62) Under Secretaries of Energy (2)."

(e) Section 5315 of title 5, United States Code, is amended by deleting "(60) Members, Federal Power Commission", by deleting "(100) Assistant Administrators, Energy Research and Development Administration (6)," and by adding at the end of the section the following:

"(105) Assistant Secretaries of Energy (8).

(106) General Counsel of the Department of Energy.

(107) Administrator of Energy Information Administration,
Department of Energy.

(108) Administrator of the Economic Regulatory Administration,
Department of Energy.

(109) Additional Officers, Department of Energy (4).".

(f) Section 5316 of title 5, United States Code, is amended by deleting "(134) General Counsel, Energy Research and Development Administration", by deleting "(135) Additional Officers, Energy Research and Development Administration (9)" and adding at the end of the section the following:

"(137) Additional Officers, Department of Energy (10).

(138) Members, Board of Appeals, Department of Energy (3).".

Sec. 715. With the consent of the appropriate Department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees and other personnel of the Departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

Sec. 716. As used in this Act - (1) references to "function" or "functions" shall be deemed to include reference to duty, obligation, power, authority, responsibility,

right, privilege, and activitiy, or the plural thereof, as the case may be; and (2) references to "perform," when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

TITLE VIII

EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 801. (a) The provisions of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that any of the officers provided for in title II and title VI of this Act may be nominated and appointed, as provided in those titles, at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such

an officer immediately prior to the effective date of the Act, to act in such office until the office is filled as provided in this Act. While so acting such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.